

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shadman Khan	Team: Squad #12	CCRB Case #: 202004061	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 6:00 PM, Thursday, 06/04/2020 6:19 PM	Location of Incident: East 173rd Street and Boston Road, 42nd Precinct stationhouse	18 Mo. SOL 5/4/2022	Precinct: 42		
Date/Time CV Reported Sat, 06/06/2020 4:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 06/06/2020 4:56 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Miguel Castillo	30291	964976	042 PCT
2. An officer			
3. POM Guillermo Jimenez	04608	960733	042 PCT
4. SGT Jorge Sanabria	03950	953362	042 PCT
5. POM Joseph Mesaris	16202	961949	042 PCT
6. PO Ahmed Abdo	28609	966921	042 PCT
7. PO John Kopp	03993	961867	042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Mohammad Mondol	05553	964663	042 PCT
2. POM George Rivera	20190	965458	042 PCT
3. POM Santo Fiorenza	08117	963517	042 PCT
4. POM Jarrett Dill	17550	940094	042 PCT
5. PO Robert Ramos	17246	959116	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Miguel Castillo	Force: At East 173rd Street and Boston Road in the Bronx, Police Officer Miguel Castillo tightly handcuffed § 87(2)(b)	
B . POM Guillermo Jimenez	Discourtesy: Inside the 42nd Precinct stationhouse, Police Officer Guillermo Jimenez spoke discourteously to § 87(2)(b)	
C . POM Guillermo Jimenez	Off. Language: Inside the 42nd Precinct stationhouse, Police Officer Guillermo Jimenez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
D . POM Guillermo Jimenez	Discourtesy: Inside the 42nd Precinct stationhouse, Police Officer Guillermo Jimenez spoke discourteously to § 87(2)(b)	
E . PO John Kopp	Force: Inside the 42nd Precinct stationhouse, Police Officer John Kopp used a chokehold against § 87(2)(b)	
F . POM Joseph Mesaris	Force: Inside the 42nd Precinct stationhouse, Police Officer Joseph Mesaris used a chokehold against § 87(2)(b)	
G . PO John Kopp	Force: Inside the 42nd Precinct stationhouse, Police Officer John Kopp restricted § 87(2)(b) breathing.	

Officer(s)	Allegation	Investigator Recommendation
H . POM Joseph Mesaris	Force: Inside the 42nd Precinct stationhouse, Police Officer Joseph Mesaris restricted § 87(2)(b) breathing.	
I . POM Miguel Castillo	Force: Inside the 42nd Precinct stationhouse, Police Officer Miguel Castillo used physical force against § 87(2)(b)	
J . PO John Kopp	Force: Inside the 42nd Precinct stationhouse, Police Officer John Kopp used physical force against § 87(2)(b)	
K . POM Joseph Mesaris	Force: Inside the 42nd Precinct stationhouse, Police Officer Joseph Mesaris used physical force against § 87(2)(b)	
L . SGT Jorge Sanabria	Force: Inside the 42nd Precinct stationhouse, Sergeant Jorge Sanabria used physical force against § 87(2)(b)	
M . PO Ahmed Abdo	Force: Inside the 42nd Precinct stationhouse, Police Officer Ahmed Abdo used physical force against § 87(2)(b)	
N . An officer	Force: Inside the 42nd Precinct stationhouse, an officer used physical force against § 87(2)(b)	
O . An officer	Discourtesy: Outside of the 42nd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)	
P . An officer	Abuse: Outside of the 42nd Precinct stationhouse, an officer threatened to arrest § 87(2)(b)	
Q . POM Miguel Castillo	Discourtesy: Outside of the 42nd Precinct stationhouse, Police Officer Miguel Castillo spoke discourteously to § 87(2)(b)	
R . POM Miguel Castillo	Abuse: Outside the 42nd Precinct stationhouse, Police Officer Miguel Castillo threatened § 87(2)(b) with the use of force.	

Case Summary

On June 6, 2020, § 87(2)(b) filed this complaint at the CCRB through the online website.

On June 4, 2020, at approximately 6:00p.m., at East 173rd Street and Boston Road in the Bronx, § 87(2)(b) sat on his bike and drank alcohol and smoked marijuana when PO Miguel Castillo, PO Mohammed Mondol, PO George Rivera, and PO Jarrett Dill from the 42nd Precinct approached § 87(2)(b). PO Castillo tightly placed § 87(2)(b) in handcuffs (**Allegation A: Abuse of Authority, § 87(2)(g)**

§ 87(2)(b) was taken to the 42nd Precinct stationhouse, where PO Jimenez told § 87(2)(b) “Shut the fuck up,” and, “You were being cool the whole way and now you’re saying, ‘Suck my dick’ now? You didn’t say that shit outside.” (**Allegation B: Discourtesy, § 87(2)(g)** (**Allegation C: Offensive Language, § 87(2)(g)** (**Allegation D: Discourtesy, § 87(2)(g)**

While at the front desk, PO John Kopp from the 42nd Precinct pushed § 87(2)(b) against the front desk and restricted his breathing (**Allegation E: Force, § 87(2)(g)** (**Allegation F: Force, § 87(2)(g)** (**Allegation G: Force, § 87(2)(g)** (**Allegation H: Force, § 87(2)(g)** PO Joseph Mesaires, PO John Kopp, Sgt. Jorge Sanabria, PO Ahmed Abdo, PO Castillo, and an unidentified officer from the 42nd Precinct pushed and pulled § 87(2)(b) to the ground. (**Allegation I: Force, § 87(2)(g)** (**Allegation J: Force, § 87(2)(g)** (**Allegation K: Force, § 87(2)(g)** (**Allegation L: Force, § 87(2)(g)** (**Allegation M: Force, § 87(2)(g)** (**Allegation N: Force, § 87(2)(g)**

§ 87(2)(b) was released from the stationhouse with a desk appearance ticket. While § 87(2)(b) left, an officer stated, “Get the fuck out of here. Don’t come back or we are going to lock you up” (**Allegation O: Abuse of Authority, § 87(2)(g)** (**Allegation P: Abuse of Authority, § 87(2)(g)** PO Castillo stated, “Is this your shit?” and “You fuck with me?” and, “Yo, you say you gonna fuck me up and all this bullshit?” (**Allegation Q: Discourtesy, § 87(2)(g)** PO Castillo also told § 87(2)(b) that if he crossed over the barricade, officers would beat him up (**Allegation R: Abuse of Authority, § 87(2)(g)** § 87(2)(b) did not receive any additional criminal charges or summonses.

The investigation received Body-Worn Camera (BWC) footage (Board Review 03 to Board Review 18; Summarized in Board Review 19 to Board Review 34). The investigation received stationhouse footage (Board Review 58; Summarized in Board Review 59)

Findings and Recommendations

Allegation (A) Force: At East 173rd Street and Boston Road in the Bronx, Police Officer Miguel Castillo tightly handcuffed § 87(2)(b)

It is undisputed that on June 4, 2020, at approximately 6:00p.m. at East 173rd Street and Boston Road in the Bronx, PO Castillo arrested § 87(2)(b) and placed him in handcuffs.

In § 87(2)(b) to the CCRB (Board Review 35, Board Review 36), he stated that at approximately 6:00p.m., he entered a cellphone store with his cousin on the west side of Boston Road. § 87(2)(b) flirted with female customers while inside of the store. After approximately two to three minutes, § 87(2)(b) exited the store and met with friends at the corner of East 173rd Street and Boston Road. § 87(2)(b) drank alcohol and smoked marijuana while he was with his friends for approximately 15-20 minutes. As § 87(2)(b) was at the location, PO Castillo, PO Mondol, PO Rivera, and PO Dill approached him. PO Mondol informed § 87(2)(b) that someone

pointed him out as the perpetrator of an assault. PO Mondol informed § 87(2)(b) that he was under arrest and instructed him to put his hands behind his back. § 87(2)(b) drank the remainder of his tequila and estimated that he drank a total of four shots of tequila and was drunk at this point. The officers placed § 87(2)(b) in handcuffs. § 87(2)(b) did not specify which officers. § 87(2)(b) cursed and yelled towards the officers and informed them that the handcuffs were too tight. The officers did not adjust § 87(2)(b) handcuffs. § 87(2)(b) was placed in a marked NYPD vehicle and transported to the 42nd Precinct stationhouse.

In PO Castillo's BWC video (Board Review 04), at approximately 10m36s, PO Castillo walks up to § 87(2)(b) is seen seated on a blue motorbike. PO Castillo instructs § 87(2)(b) to get off the bike and instructs him to walk toward the wall of a building. § 87(2)(b) appears to finish a drink and then walks to the wall. As § 87(2)(b) puts his hands up, PO Mondol is heard informing § 87(2)(b) that he would be arrested. At 11m18s, PO Castillo placed § 87(2)(b) in handcuffs. While the handcuffs are not seen in the video, the clicking sound of the handcuffs is heard. At 11m35s, § 87(2)(b) is seen in handcuffs and PO Castillo steps back. § 87(2)(b) does not complain about the handcuffs at this point. § 87(2)(b) states, "Suck my dick" towards multiple officers and repeatedly states, "Beat me up" to the officers. § 87(2)(b) is escorted to a marked vehicle and placed in the backseat. § 87(2)(b) is not heard complaining about the tightness of the handcuffs at any point.

In PO Castillo's statement to the CCRB (Board Review 38), he stated that he responded to a radio run regarding a harassment. PO Castillo spoke to the caller and a witness, who stated a male, identified by the investigation as § 87(2)(b) had kicked the caller and left a red mark on her arm. PO Castillo placed both the caller and the witness into his marked vehicle. The caller stated that § 87(2)(b) was on the corner of the street. While in the vehicle, the caller pointed out § 87(2)(b) seated on a bicycle at the incident location. PO Castillo approached § 87(2)(b) with PO Mondol. PO Castillo informed § 87(2)(b) why officers were at the location and informed him that he was being arrested. PO Castillo placed the handcuffs on § 87(2)(b) who was compliant and did not resist the arrest. PO Castillo did not tighten the handcuffs too tight as he placed the handcuffs on § 87(2)(b) did not complain of the handcuffs being too tight. § 87(2)(b) was then transported to the 42nd Precinct stationhouse.

The investigation requested an AIDED for § 87(2)(b) regarding this incident. The investigation only received an AIDED for the individual that § 87(2)(b) allegedly assaults. No AIDED reports were received for § 87(2)(b) (Board Review 50).

All parties agree that § 87(2)(b) was placed in handcuffs at the incident location. While § 87(2)(b) alleged that his handcuffs were too tight and that he informed the officers on scene that they were too tight, BWC footage shows no indication that he did so. § 87(2)(b) is not seen complaining towards the handcuffing process and only shouts towards the officers as he is escorted to a marked vehicle. § 87(2)(g)

Allegation (B) Discourtesy: Inside the 42nd Precinct stationhouse, Police Officer Guillermo Jimenez spoke discourteously to § 87(2)(b)

Allegation (C) Offensive Language: Inside the 42nd Precinct stationhouse, Police Officer Guillermo Jimenez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation (D) Discourtesy: Inside the 42nd Precinct stationhouse, Police Officer Guillermo Jimenez spoke discourteously to § 87(2)(b)

According to § 87(2)(b) once he was at the stationhouse, he continued to loudly curse towards the

officers. An unidentified male officer then told § 87(2)(b) “Shut the fuck up.” § 87(2)(b) was then taken to a room with holding cells.

In PO Jimenez’s BWC video (Board Review 09), at 11m32s, PO Jimenez helps escort § 87(2)(b) into the stationhouse. During this time, § 87(2)(b) is heard repeatedly stating, “Suck my dick,” and, “I don’t give a fuck.” § 87(2)(b) states that he could fight and beat any officer one-on-one. § 87(2)(b) is brought to the front desk for processing. No officer is heard making the stating, “Shut the fuck up,” at any point. While at the front desk, § 87(2)(b) repeatedly states, “Suck my dick.” At 13m04s, § 87(2)(b) states, “Fuck you, nigger. Suck my dick.” PO Jimenez asks, “Why are you saying that right now?” § 87(2)(b) repeatedly states, “Suck my dick.” At 13m25s, PO Jimenez states, “You were being cool the whole way and now you’re saying, ‘Suck my dick’ now? You didn’t say that shit outside.”

In PO Jimenez’s statement to the CCRB (Board Review 40), he stated that he responded to a job at East 173rd Street and Boston Road in the Bronx for a crime in progress. Once at the incident location, he saw multiple officers already there. The officers from Sector Adam had already effected an arrest, so PO Jimenez stood nearby in order to transport the subject, identified by the investigation as § 87(2)(b) to the stationhouse. § 87(2)(b) was placed inside of PO Jimenez’s vehicle and transported to the 42nd Precinct stationhouse. PO Jimenez escorted § 87(2)(b) to the front desk for processing. § 87(2)(b) spoke during this time but did not directly speak to PO Jimenez. PO Jimenez did not make the statement, “Shut the fuck up,” toward § 87(2)(b). PO Jimenez did not recall if any officer made that statement toward § 87(2)(b). PO Jimenez was shown his BWC video, played from 13m20s to 13m34s. § 87(2)(b) is heard stating, “Suck my dick,” and PO Jimenez is heard stating, “You were being cool the whole way and now you’re saying, ‘Suck my dick’ now? You didn’t say that shit outside.” PO Jimenez was unsure if this was his voice and could not conclusively identify it.”

Officers must respect the dignity of each individual and render their services with courtesy and civility. Patrol Guide Procedure 200-02: Mission, Vision, and Values of the NYPD (Board Review 53).

Although § 87(2)(b) alleged that an officer told him, “Shut the fuck up.” BWC video indicated that no such statement was made. The only individual heard using profane statements while being escorted into the stationhouse was § 87(2)(b) § 87(2)(g)

In his statement to the CCRB, PO Jimenez stated that he was unable to state if he was the one that made the statement, “You were being cool the whole way and now you’re saying, ‘Suck my dick’ now? You didn’t say that shit outside.” Nonetheless, the investigation that he did indeed make this statement because the BWC depicts that he was the officer speaking with § 87(2)(b) at the time the statement was made. Further, the voice that made this statement is consistent with the voice of the officer who spoke with § 87(2)(b) as he entered the stationhouse, and PO Jimenez is the officer who was with § 87(2)(b) when this occurred.

Although PO Jimenez uttered the phrase “Suck my dick,” when he did so, he was simply repeating a statement § 87(2)(b) had made. As per the BWC footage, this repetition of § 87(2)(b) was part of a continued query in which PO Jimenez was asking § 87(2)(b) why he was speaking in this manner. § 87(2)(g)

§ 87(2)(b) Since the statement was a repeat of § 87(2)(b) because the statement was part of a continued query as to why § 87(2)(b) was

speaking discourteously, § 87(2)(g)

As part of his query, PO Jimenez also stated, “You didn’t say that shit outside.” PO Jimenez claimed that he was uncertain whether it was his voice on the BWC recording, and did not provide an explanation as to why he used the word “shit” while speaking with § 87(2)(b) Patrol Guide Procedure 200-02 directs officers to speak with civilians with courtesy and civility. The use of profanity like the word “shit” is neither courteous nor civil. § 87(2)(g)

Allegation (E) Force: Inside the 42nd Precinct stationhouse, Police Officer John Kopp used a chokehold against § 87(2)(b)

Allegation (F) Force: Inside the 42nd Precinct stationhouse, Police Officer Joseph Mesaris used a chokehold against § 87(2)(b)

Allegation (G) Force: Inside the 42nd Precinct stationhouse, Police Officer John Kopp restricted § 87(2)(b) breathing.

Allegation (H) Force: Inside the 42nd Precinct stationhouse, Police Officer Joseph Mesaris restricted § 87(2)(b) breathing.

It is undisputed that inside of the 42nd Precinct stationhouse, PO Kopp and PO Mesaris restrained § 87(2)(b) and pushed him against the front desk, causing § 87(2)(b) neck to make contact with the edge of the front desk.

According to § 87(2)(b) after he was taken into the stationhouse, he was escorted to the holding cells. In that room, officers, including PO Castillo, threw § 87(2)(b) to the ground and piled on top of him. While on the floor, PO Castillo instructed § 87(2)(b) to stop resisting. Officers placed leg shackles on § 87(2)(b) ankles. § 87(2)(b) felt pressure on his back, shoulder, and neck areas. The combined effects of the pressure and his yelling also made it difficult for § 87(2)(b) to breathe.

In PO Jimenez’s BWC video, at 13m05s, § 87(2)(b) – who is handcuffed – suddenly turns towards PO Jimenez and states, “Suck my dick.” PO Jimenez pushes § 87(2)(b) forward so that his body is leaned over a torso-high wooden rail in front of the front desk. Only § 87(2)(b) torso is in contact with the wooden rail; his face and neck are not in contact with anything. At 13m08s, § 87(2)(b) again turns to PO Jimenez and exclaims, “You said you was with me.” At 13m10s, PO Jimenez and PO Mesaris push § 87(2)(b) forward so that he is once again standing with his chest in contact with wooden rail. PO Mesaris maintains physical contact with § 87(2)(b) back. At 13m13s, § 87(2)(b) head is visible and his neck is not in contact with the front desk. Shortly thereafter, his head and neck are obscured by his body due to the camera angle. At 13m17s, PO Mesaris is seen holding § 87(2)(b) right arm as he leans over the front desk. § 87(2)(b) is heard stating, “Suck my dick,” multiple times and attempting to turn around to face PO Jimenez multiple times. At 13m34s, § 87(2)(b) neck is shown making contact with the front desk. At 13m35s, an officer with a gold bracelet – identified by the investigation as PO Kopp – places a hand on § 87(2)(b) body and pushes him forward; this action causes § 87(2)(b) neck to make contact with the front desk. At 13m39s, a right arm is seen holding § 87(2)(b) forward against the front desk. § 87(2)(b) is heard stating, “You trying to kill me. I can’t breathe. I can’t breathe. Why you pressing my neck in the shoulder?” An officer is heard stating, “We’re nowhere near your neck.” During this time, PO Jimenez frisks and searches § 87(2)(b) At 14m08s, the camera turns and PO Kopp’s face can be seen holding § 87(2)(b) against the front desk with PO Mesaris when § 87(2)(b) stated he could not breathe. At 14m20s, PO Jimenez, who is removing items from § 87(2)(b) pants pockets and placing the items on the desk, places his BWC on the front desk facing § 87(2)(b)

§ 87(2)(b) At the same time, § 87(2)(b) begins to spit purposefully in the direction of the desk. At 14m31s, § 87(2)(b) neck can be seen making contact with the edge of the front desk. PO Jimenez approaches § 87(2)(b) with a mask and attempts to place the mask over § 87(2)(b) face, but is unsuccessful. At 14m34s, PO Jimenez's arms block the view of § 87(2)(b) neck. At approximately 14m35s, § 87(2)(b) is moved away from the desk.

The investigation received stationhouse footage capturing the front entrance of the stationhouse (Board Review 60-65). Even though the investigation's request for stationhouse footage specified the front desk, no footage covering this area of the stationhouse was provided. The provided footage does not depict this interaction between § 87(2)(b) and officers.

In PO Kopp's statement to the CCRB (Board Review 44), he stated that he worked as a telephone switchboard operator in the 42nd Precinct stationhouse. PO Kopp did not have any independent recollection of the incident. PO Kopp was not familiar with the name § 87(2)(b). PO Kopp recalled one incident where a male arrestee was taken to the ground and placed in leg shackles. PO Kopp did not recall pushing § 87(2)(b) against the front desk during the date of the incident. PO Kopp did not see if § 87(2)(b) neck made contact with the edge of the front desk. PO Kopp did not recall any statements made regarding § 87(2)(b) neck. PO Kopp was shown PO Jimenez's BWC video, which was played from 14m18s to 14m22s. The video portion showed § 87(2)(b) spitting. PO Kopp confirmed that it was him in the BWC video. The video was played from 14m27s to 14m32s, where § 87(2)(b) neck contacted the front desk. PO Kopp affirmed that he saw as much in the video. PO Kopp stated that this did not refresh any recollection of the incident. The video was again played from 14m22s to 14m35s, where § 87(2)(b) was pushed against the front desk. PO Kopp stated he did not see himself in the video. PO Kopp stated he saw himself move forward but did not touch § 87(2)(b). The video did not refresh any additional recollection of the incident.

In PO Mesaris' statement to the CCRB (Board Review 46), he stated that he was in the 42nd Precinct stationhouse when other officers brought a handcuffed male, identified by the investigation as § 87(2)(b) inside. § 87(2)(b) acted belligerently by threatening to fight other officers, used offensive language, and spit. When § 87(2)(b) was brought to the front desk, he continuously attempted to turn away from the front desk. Since § 87(2)(b) threatened officers, tried to turn away from the front desk, and made statements such as, "Suck my dick," PO Mesaris decided to hold § 87(2)(b) as other officers did the arrest processing. PO Mesaris explained that he only held § 87(2)(b) and leaned him against the front desk due to his actions. PO Mesaris was the first officer to use force against § 87(2)(b). § 87(2)(b) started to spit around the desk and towards other officers during the time PO Mesaris held him. PO Mesaris continued to restrain § 87(2)(b) by grabbing his shoulder. During this time, § 87(2)(b) face made contact with the front desk as he leaned forward. PO Mesaris recalled that at one point, § 87(2)(b) did complain of being unable to breathe. PO Mesaris did not recall if § 87(2)(b) neck made contact with the edge of the desk at any point. PO Mesaris was shown PO Jimenez's BWC video. The video was played from 14m24s to 14m31s, which showed § 87(2)(b) being restrained by PO Mesaris and other officers. Based on the video, PO Mesaris explained that he was only holding § 87(2)(b) down with § 87(2)(b) face against the front. The video was again played from 14m31s to 14m34s, where § 87(2)(b) neck slightly contacts the edge of the desk. PO Mesaris stated that based on the video, he did not know if § 87(2)(b) breathing was restricted based on his actions.

A chokehold shall include, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air. Members of service **SHALL NOT** use a chokehold [emphasis in the original]. Patrol Guide Procedure 221-01: Force Guidelines (Board Review 52).

BWC and stationhouse footage indicate that PO Kopp and PO Mesaris were the officers that initially pushed § 87(2)(b) against the front desk, causing his neck to make contact with the edge of the front desk. PO Mesaris' involvement is further corroborated by his statement, where he affirmed that he was the first officer to use force against § 87(2)(b). While neither PO Kopp nor PO Mesaris recalled if § 87(2)(b) neck made contact with the edge of the front desk, both officers affirmed that they saw as much in the BWC video. Due to the sharp and protruded nature of the edge of the front desk, any contact with § 87(2)(b) neck has the possibility to prevent or hinder § 87(2)(b) breathing or reduce his intake of air. As such, any police action that caused § 87(2)(b) neck to come into contact with the edge of the front desk and any pressure applied to § 87(2)(b) when his neck was in contact with the edge of the front desk would be considered a chokehold under the definition in the Patrol Guide. Although § 87(2)(b) was engaged in belligerent behavior by repeatedly turning towards PO Jimenez, threatening to use force against officers, and purposefully spitting, under Patrol Guide Procedure 221-01, the use of a chokehold is a prohibited action regardless of the circumstances. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that he had difficulty breathing at the time force was used against him. Additionally, BWC footage shows § 87(2)(b) stating that he was unable to breathe at that time. § 87(2)(b) is later shown being pushed toward the front desk, causing his neck to make contact with the sharp edge of the front desk. This partially gives credibility to § 87(2)(b) of being unable to breathe. However, the available footage does not consistently depict § 87(2)(b) neck to determine whether officers applied pressure while his neck was on the edge of the desk for any length of time that might result in breathing difficulty. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (I) Force: Inside the 42nd Precinct stationhouse in the Bronx, Police Officer

Miguel Castillo used physical force against § 87(2)(b)

Allegation (J) Force: Inside the 42nd Precinct stationhouse in the Bronx, Police Officer John

Kopp used physical force against § 87(2)(b)

Allegation (K) Force: Inside the 42nd Precinct stationhouse in the Bronx, Police Officer

Joseph Mesaris used physical force against § 87(2)(b)

Allegation (L) Force: Inside the 42nd Precinct stationhouse in the Bronx, Sergeant Jorge

Sanabria used physical force against § 87(2)(b)

Allegation (M) Force: Inside the 42nd Precinct stationhouse in the Bronx, Police Officer

Ahmed Abdo used physical force against § 87(2)(b)

Allegation (N) Force: Inside the 42nd Precinct stationhouse in the Bronx, an officer used physical force against § 87(2)(b)

It is undisputed that inside of the 42nd Precinct stationhouse, multiple officers restrained § 87(2)(b) and took him to the ground and placed him in leg shackles.

As discussed in Allegations E to H, § 87(2)(b) recalled being placed on the ground in the holding cells while officers piled on top of him. § 87(2)(b) felt pressure on his back, shoulder, and neck areas.

In PO Jimenez's BWC video, § 87(2)(b) repeatedly tried to turn back toward PO Jimenez before both PO Mesaris and PO Kopp pushed him against the front desk. Both officers release § 87(2)(b) while PO Jimenez continues to remove items from § 87(2)(b) pants pockets. At 14m25s, § 87(2)(b)

§ 87(2)(b) starts to spit toward the front desk while stating, “Do what you all do. Kill me.” PO Mesaris and PO Kopp move forward toward § 87(2)(b) again and grab and push him towards the front desk. At 14m40s, § 87(2)(b) is then pulled back and appears to be pulled down by officers. PO Mesaris, PO Kopp, Sgt. Sanabria, PO Abdo, and an unidentified officer are seen holding § 87(2)(b) as he goes down to the ground. Sgt. Sanabria is seen doing something to § 87(2)(b) foot while multiple officers state, “Stop resisting.” § 87(2)(b) is then picked up by multiple officers and escorted away from the front desk. PO Castillo is not seen as one of the officers taking § 87(2)(b) to the ground.

In Sgt. Sanabria’s BWC video (Board Review 17), at 00m30s, Sgt. Sanabria walks over towards where officers are gathered around § 87(2)(b). Due to an officer standing in front of Sgt. Sanabria, the BWC does not depict § 87(2)(b) until 00m59s when Sgt. Sanabria grabs § 87(2)(b). At 01m04s, § 87(2)(b) is seen laying face-down on the ground. Sgt. Sanabria removes § 87(2)(b) left shoe and places cuffs around his ankles. Multiple officers are seen only holding § 87(2)(b) as Sgt. Sanabria places the cuffs on his other foot. § 87(2)(b) states, “Please don’t kill me,” as multiple officers state, “Stop resisting.” Sgt. Sanabria and other officers pick § 87(2)(b) up and escort him to the holding cells.

The investigation received stationhouse footage capturing the front entrance of the stationhouse (Board Review 63). At 28m19s into the video recording, officers can be seen gathering a few feet away from the front desk. Neither the front desk nor § 87(2)(b) is visible at this time. At approximately 28m26s, PO Kopp and other officers are seen moving out of the camera frame and then pull back with § 87(2)(b) and holding his hands as he is brought to the ground. The video then shows Sgt. Sanabria move toward § 87(2)(b) feet with leg shackles. The video does not clearly show the entirety of the interaction between § 87(2)(b) and the officers. PO Castillo is not seen in the interaction with § 87(2)(b).

According to PO Castillo, he did not return to the 42nd Precinct stationhouse after § 87(2)(b) was transferred there. § 87(2)(b) went to the stationhouse afterwards for arrest processing paperwork. PO Castillo was not aware of any incident that occurred in the stationhouse with § 87(2)(b). § 87(2)(b) was already inside of the holding cell area when PO Castillo arrived at the stationhouse.

According to PO Kopp, he recalled the specific incident where § 87(2)(b) was taken to the ground and placed in leg shackles. PO Kopp recalled that officers were on the ground while trying to place the leg shackles on § 87(2)(b). PO Kopp did not recall why specifically § 87(2)(b) was brought down to the floor. PO Kopp recalled being struck in the face by accident by Sgt. Sanabria’s elbow but did not recall much else otherwise. During his CCRB statement, PO Kopp was shown portions of PO Jimenez’s BWC video footage, but he stated that this did not refresh his recollection of the incident. The video was resumed from 14m42s to 15m25s, where § 87(2)(b) was on the ground. PO Kopp stated that this portion was when Sgt. Sanabria hit PO Kopp in the face with his elbow. PO Kopp stated he saw himself as he got up from the floor but did not recall what he was doing at the time. PO Kopp had no idea why he was on the floor.

According to PO Mesaris, as he held § 87(2)(b) and pushed him against the front desk, § 87(2)(b) resisted officers by pushing away from the direction that officers pushed him. PO Mesaris and multiple other officers “gently” placed § 87(2)(b) on the ground at this time. PO Mesaris did not recall exactly how § 87(2)(b) was placed on the ground. PO Mesaris did not recall why § 87(2)(b) was placed on the ground in the first place.

In Sgt. Sanabria’s statement to the CCRB (Board Review 42), he stated that he was inside of the 42nd Precinct stationhouse when a male, identified by the investigation as § 87(2)(b) was brought

in. § 87(2)(b) yelled, screamed, and did not respond to any commands at the time. § 87(2)(b) even threw himself onto the floor at one point. Sgt. Sanabria was on the other side of the front desk while other officers held § 87(2)(b). Sgt. Sanabria explained that the officers had to hold § 87(2)(b) because he was being irate, not listening to officers, and not standing still in the front desk for arrest processing. Sgt. Sanabria saw that § 87(2)(b) was being held against the front desk. It appeared that § 87(2)(b) fell to the floor on his own accord while being held by officers. Sgt. Sanabria grabbed one of § 87(2)(b) legs and removed the sneaker to place leg shackles. Sgt. Sanabria managed to place leg shackles on § 87(2)(b) who was then lifted up and taken to the holding cells.

In PO Abdo's statement to the CCRB (Board Review 48), he stated that he was inside of the stationhouse working as a stationhouse security officer. PO Abdo witnessed officers bring a handcuffed male, identified by the investigation as § 87(2)(b) into the stationhouse. PO Abdo described § 87(2)(b) as "angry" and explained that § 87(2)(b) tried to run away towards the outside and tried to leave the stationhouse. § 87(2)(b) also started to spit towards the front desk and desk sergeant while officers were trying to process him for the arrest. Multiple other officers attempted to grab § 87(2)(b) and restrain him. PO Abdo also moved towards § 87(2)(b) and grabbed his arm in an attempt to assist the other officers' attempt to restrain § 87(2)(b). PO Abdo explained that this was done to place leg shackles and a mask on § 87(2)(b). § 87(2)(b) was brought down to the ground in a controlled manner. PO Abdo continued to hold § 87(2)(b) for approximately three seconds and then released him. Once on the ground, an officer placed leg shackles on § 87(2)(b) and he was escorted to the holding cells.

The primary duty of all members of the service is to protect human life, including the lives of individuals being placed in police custody. Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, members of the service should consider the actions taken by the subject, duration of the action, and whether the subject is actively resisting custody. Patrol Guide Procedure 221-01: Force Guidelines (Board Review 52).

While § 87(2)(b) alleged that PO Castillo was present when he was taken to the ground, BWC footage shows that he was not present at the time § 87(2)(b) was taken to the ground. § 87(2)(b)

All parties agree that § 87(2)(b) shouted towards officers while he was inside of the stationhouse. Based on the officers' statements, § 87(2)(b) continued to shout towards officers even as he was being processed for arrest at the front desk. BWC video shows that in addition to shouting towards officers, § 87(2)(b) attempted to turn away from the front desk multiple times as PO Jimenez processed § 87(2)(b). Additionally, § 87(2)(b) started to spit towards the front desk multiple times, where a desk sergeant was seated. § 87(2)(g)

As seen in the PO Jimenez's BWC footage, officers grabbed § 87(2)(b) and brought him to the ground as he continued to shout toward officers. Sgt. Sanabria's BWC footage then shows that officers only held § 87(2)(b) on the ground as Sgt. Sanabria placed the leg shackles on § 87(2)(b). § 87(2)(b) was then immediately lifted into a standing position and escorted to a holding cell. § 87(2)(g)

Allegation (O) Discourtesy: Outside of the 42nd Precinct stationhouse in the Bronx, an officer spoke discourteously to § 87(2)(b)

Allegation (P) Abuse of Authority: Outside of the 42nd Precinct stationhouse in the Bronx, An Officer threatened to arrest § 87(2)(b)

Allegation (Q) Discourtesy: Outside of the 42nd Precinct stationhouse in the Bronx, Police Officer Miguel Castillo spoke discourteously to § 87(2)(b)

Allegation (R) Abuse of Authority: Outside of the 42nd Precinct stationhouse in the Bronx, Police Officer Miguel Castillo threatened § 87(2)(b) with the use of force.

According to § 87(2)(b) he remained in the cell for one to three hours before he was released with a Desk Appearance Ticket. As § 87(2)(b) walked out of the stationhouse, an unidentified officer stood on the front stairs and told § 87(2)(b) “Get the fuck out of here. Don’t come back or we are going to lock you up. You’re not welcome here.” § 87(2)(b) described this officer as a sergeant who was 5’8” tall Hispanic male in uniform with stripes on his sleeves and stocky. PO Castillo then informed § 87(2)(b) that if he crossed back over the barricade, the officers would beat him up.

In PO Castillo’s BWC video, at 00m40s, PO Castillo exits the stationhouse and approaches a group of officers positioned on one side of a barricade. § 87(2)(b) is seen standing on the opposite side of the barricade and speaking with officers. There is no audio at this time. Three officers are seen in front of PO Castillo as he speaks to § 87(2)(b). At 01m01s, PO Castillo states, “Yo, is this your shit?” § 87(2)(b) states that he did not do anything and that he “fucks with him.” PO Castillo replies, “You fuck with me?” PO Castillo continues and states, “Yo, you say you gonna fuck me up and all this bullshit?” § 87(2)(b) then states he wants to fight the officer and denies stating, “I wanna fuck you up.” PO Castillo responds, “I might win. You’re right about that.”

According to PO Castillo, § 87(2)(b) was released with a Desk Appearance Ticket. PO Castillo helped release § 87(2)(b) from the stationhouse. PO Castillo did not recall speaking to § 87(2)(b) as he was released from the stationhouse. PO Castillo did not recall speaking to § 87(2)(b) outside of the stationhouse. PO Castillo did not make the statement, “Get the fuck out of here. Don’t come back or we’re going to lock you up.” PO Castillo did not hear any officer make this statement toward § 87(2)(b). PO Castillo did not state he would beat § 87(2)(b) up if he crossed the barricade. PO Castillo did not hear any officer state they would beat § 87(2)(b) up. PO Castillo was shown his BWC video from 01m00s to the end of the recording. The video showed a voice stating, “Yo, is this your shit?” and, “You fuck with me?” and, “Yo, you say you gonna fuck me up and all this bullshit.” PO Castillo affirmed that was his voice and that the statement was a repetition of § 87(2)(b) in question form. There was no other reason why such a statement was made.

The investigation received the roll call from the 42nd Precinct for Tour 3 on the date of the incident (Board Review 51). The roll call listed multiple Hispanic males working on the date of the incident. Further searches for any sergeants yielded four Hispanic males who were on duty (Board Review 54).

Officers must respect the dignity of each individual and render their services with courtesy and civility. Patrol Guide Procedure 200-02: Mission, Vision, and Values of the NYPD (Board Review 53).

Despite attempts to locate the subject of the discourteous statements and threat of arrest using the brief description provided by § 87(2)(b) the investigation is unable to identify a specific officer for the allegation. Additionally, BWC footage does not capture any officer making the alleged discourteous statement and threat of arrest. § 87(2)(g)

§ 87(2)(g)

PO Castillo's statement, "You fuck with me?" was in response to § 87(2)(b) "I fuck with you." As stated in Allegation C, repetitions of a statement made by a civilian for clarification does not constitute misconduct. However, BWC footage captured PO Castillo making additional discourteous statement of, "Is this your shit?" and "Yo, you say you gonna fuck me up and all that bullshit." PO Castillo stated that his use of profanity was just a repetition of § 87(2)(b) at the time. § 87(2)(g)

§ 87(2)(b) stated that an officer threatened to beat him up. However, BWC footage showed that it was § 87(2)(b) who threatened to use force against the officers. PO Castillo did not make any statements about using force against § 87(2)(b) and only responded to § 87(2)(b) statement about fighting by saying that he might win such a fight. § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Castillo has been a member of service for four years and has been in a subject in one other CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Jimenez has been a member of service for six years and has been a subject in one other CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Kopp has been a member of service for five years and this is the first CCRB complaint to which he has been a subject.
- PO Mesaris has been a member of service for five years and has been a subject in one other CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Sgt. Sanabria has been a member of service for nine years and has been a subject in nine CCRB complaints and 16 allegations, of which one was substantiated.
 - 201401080 involved substantiated allegations of a vehicle stop and vehicle search against Sgt. Sanabria. The Board recommended command discipline and the NYPD imposed command discipline – A.
- PO Abdo has been a member of service for three years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of December 23, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 56).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 12

Investigator: Shadman Khan Investigator Shadman Khan March 21, 2022
Signature Print Title & Name Date

Squad Leader: Carlmais Johnson IM Carlmais Johnson March 22, 2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date